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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,106	11/17/2000	Nandu Gopalakrishnan	4-2-4-5-13-8	6716
22046	7590	09/29/2004	EXAMINER	
LUCENT TECHNOLOGIES INC. DOCKET ADMINISTRATOR 101 CRAWFORDS CORNER ROAD - ROOM 3J-219 HOLMDEL, NJ 07733			NGUYEN, BRIAN D	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/716,106

Applicant(s)

GOPALAKRISHNAN ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 6/28/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 8 and 9 are objected to because of the following informalities:

Claim 8, line 5, "feedback information" seems to refer back to "feedback information" in line 3. If this is true, it is suggested to change "feedback information" to ---the feedback information---.

Claim 9, line 6, "feedback information" seems to refer back to "feedback information" in line 4. If this is true, it is suggested to change "feedback information" to ---the feedback information---.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-4 and 8-9 are rejected under 35 U.S.C. 102(a) as being anticipated by ERICSSON TELEFON AB L M (WO 00 16513 A).

Regarding claim 1, ERICSSON discloses a method comprising the steps of: receiving rate (mode) information for a wireless unit at a first rate (see page 6, lines 1-9 and page 12, lines 18-26 where the first rate is every n-th frame); and adapting at a second rate not equal to the first rate a channel for communicating between the wireless unit and a base station (see page

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10, lines 10-12 where ERICSSON teaches the second rate (the codec mode change rate) can be changed as quickly as possible).

Regarding claim 2, ERICSSON discloses using the first rate which is slower than the second rate (suppose the first rate is no more than once every other frame as described in page 6, line 3 of ERICSSON and the second rate is as quickly as possible or specifically, at every slot as described in the related prior art, page 2, lines 23-25).

Regarding claim 3, ERICSSON discloses the receiving comprises receiving the rate information from the wireless unit (see page 5, lines 29-32).

Regarding claim 4, ERICSSON discloses receiving the rate information once every three slots (see page 12, lines 18-26 where  $n = 3$ ).

Regarding claim 8, ERICSSON discloses a method for determining a data rate for a downlink communications channel shared by a plurality of wireless units for communication with a base station, wherein the data rate is adapted based on feedback information from at least one of the wireless units, the method characterized by: receiving, at a feedback rate, feedback information from at least a given wireless unit for calculating the data rate; and adapting, at an adaptation rate different from the feedback rate, the data rate based on the feedback information, for at least the given wireless unit to use on the downlink communications channel (see page 6, lines 1-9; page 10, lines 10-12; page 12, lines 18-26).

Regarding claim 9, ERICSSON discloses a rate-determination system for determining a data rate for a downlink communications channel shared by a plurality of wireless units for communication with a base station, wherein the data rate is adapted based on feedback information from at least one of the wireless units, the method characterized in that: the system is

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configured to receive, at a feedback rate, feedback information from at least a given wireless unit for calculating the data rate; and the system is further configured to adapt, at an adaptation rate different from the feedback rate, the data rate based on the feedback information, for at least the given wireless unit to use on the downlink communications channel (see page 6, lines 1-9; page 10, lines 10-12; page 12, lines 18-26).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over ERICSSON TELEFON AB L M (WO 00 16513 A).

Regarding claims 5 and 6, ERICSSON does not specifically disclose adapting the rate information every slot or responding to rate information up to once every slot. However, ERICSSON discloses on page 10, lines 10-12 that it is desirable to maintain low coding delay so that codec modes can be changed quickly to account for rapid changes in transmission channel conditions. In other words, the second rate should be as high as possible. In addition, page 2, lines 23-25 of the Description of Related Art described adapting rate information every slot. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to adapting rate information every slot to account for rapid changes in transmission channel conditions.

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Regarding claim 7, claim 7 is a method claim that has substantially the same limitations as the method claim 6. Therefore, it is subject to the same rejection.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (571) 272-3084.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



09/23/04